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In re Application of
Thomas H. Campbell et al
Serial No. : 09/820,441
Filed : March 28, 2001
For : Thermography Catheter

: DECISION ON PETITION
: TO WITHDRAW
: HOLDING OF
: ABANDONMENT
:

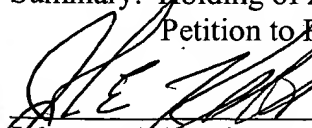
This is a decision on petitioner's request filed September 12, 2003 to review the holding of abandonment mailed July 1, 2003 for failure to respond to the Office action mailed November 19, 2002. The basis for the request is that applicant did not receive the communication mailed November 19, 2002. There is no fee required for this petition.

In order to overcome the presumption of delivery of an Office action, a practitioner must submit the following: (1) a statement from the practitioner stating that the Office action was not received by practitioner; (2) a statement attesting to the fact that a search of the file jacket and docket record indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received and docketed. See 1156 OG 53.

The request filed September 12, 2003 includes all the above elements. In addition, a review of the file reveals that, as discovered by petitioner during the status inquiries made between February 26, 2003 and May 21, 2003, the Office action in question was mailed to an incorrect address. The records of the Office have been corrected to reflect the proper attorney of record and correspondence address. The request is therefore GRANTED. Upon the mailing of this decision, the application will be forwarded to the Legal Instruments Examiner for the remailing of the Office action of November 19, 2002, which action will set a new shortened statutory period for response.

In view of the granting of the petition to withdraw the holding of abandonment, the request that the instant petition be considered, in the alternative, under 37 CFR 1.137(b) is hereby dismissed as being moot.

Summary: Holding of Abandonment Withdrawn.
Petition to Revive under 37 CFR 1.137(b) dismissed.


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ak/1/14/04